

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMERICAN STRATEGIC INSURANCE
CORP, a foreign insurer,

Plaintiff,

v.

QUANG VUONG, *et al.*,

Defendants.

CASE NO. C23-0388-JCC

ORDER

This matter comes before the Court on Plaintiff’s motion for leave to amend its complaint (Dkt. No. 19). Having thoroughly considered the briefing and the relevant record, the Court finds oral argument unnecessary and hereby GRANTS the motion for the reasons explained below.

Plaintiff filed a complaint for declaratory relief in March 2023 (Dkt. No. 1), which it now seeks leave to amend. (*See* Dkt. No. 19.) “The court should freely give leave to amend when justice so requires.” Fed. R. Civ. P. 15(a)(2). In determining whether to grant leave, the Court considers “the presence or absence of undue delay, bad faith, dilatory motive, repeated failure to cure deficiencies . . . , undue prejudice to the opposing party[,], and futility of the proposed amendment.” *Kroessler v. CVS Health Corp.*, 977 F.3d 803, 814–15 (9th Cir. 2020).

Plaintiff seeks to amend to include “additional policy language that may be legally significant in regard to coverage under the policy of insurance” at issue in this underlying case.

(Dkt. No. 19 at 2.) The Defendants oppose the motion on the grounds that the underlying legal claim is insufficient, arguing that this amendment is moot. (Dkt. Nos. 21 at 2; 22.) However, “leave to amend should be denied as futile ‘only if no set of facts can be proved under the [proposed] amendment . . . that would constitute a valid and sufficient claim or defense.’” *Barahona v. Union Pac. R.R. Co.*, 881 F.3d 1122, 1134 (9th Cir. 2018) (quoting *Sweaney v. Ada Cnty.*, 119 F.3d 1385, 1393 (9th Cir. 1997)). The Defendants have not demonstrated futility here, beyond conclusory statements of law. Therefore, given the lack of undue delay on the part of Plaintiff, and the lack of prejudice to the Defendants, the Court believes that justice requires granting leave to amend.

For the foregoing reasons, Plaintiff’s motion for leave to amend its complaint (Dkt. No. 19) is GRANTED.¹ Plaintiff will file the proposed amended complaint submitted as Exhibit 1 to its motion for leave to amend. (Dkt. No. 19-1.)

DATED this 23rd day of June 2023.

A handwritten signature in black ink, reading "John C. Coughenour", written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE

¹ The stipulated motion to extend the noting date for Plaintiff’s motion for leave to amend (Dkt. No. 20) is hereby GRANTED retroactively.